



FILED:  
March 15,  
2022

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

<b>Gregory L. Wilson, Sr. in his official capacity as Executive Director of the Indiana Civil Rights Commission &amp; Edward Stotts,</b>  Complainants,  V.  <b>Bedford Housing Authority,</b>  Respondent.	Administrative Cause No. ICRC-2202-000271  Underlying Agency Action No.:  HOha21080290  05-21-3276-8
---	--

*Subject to the Ultimate Authority of the Indiana Civil Rights Commission*

**RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

*Pursuant to IC 4-21.5 this Recommended Order is not final and shall be presented to the  
ultimate authority for issuance of a final order.*

**JURISDICTION**

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over housing and real estate discrimination complaints based on disability that are filed under the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-4-1; IND. CODE § 22-9.5-5. When a finding of cause is made under the IFHA and ICRL, pursuant to the Commission's June 19, 2020 Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-6-14; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

**ISSUE**

Is Respondent's Notice of Election and Agreement ("Notice") successful in moving this matter out of the administrative forum?

**FINDINGS OF FACT**

1. On March 9, 2022, the ICRC, after conducting a neutral investigation, made a reasonable cause and probable cause finding on Edward Stotts's August 6, 2021 complaint that alleged Respondent violated the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL") by discriminating against him in the protected area of housing and real estate on the basis of disability.

2. Respondent filed the Notice within twenty (20) days of the date that Respondent received the Notice of Finding and Charge.
3. The Notice was served on: the ICRC Director, ICRC Staff Attorney Bremer, the Aggrieved Person, the ICRC Docket Clerk, and the OALP ALJ.
4. By the date the Notice was filed, a hearing had not yet begun in this matter.
5. Attorney Bremer confirmed in writing on March 10, 2022 that Complainants are joining Respondent's Notice (attached).
6. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

### **CONCLUSIONS OF LAW**

#### *Election under the Indiana Fair Housing Act*

1. "A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action. . ." IND. CODE § 22-9.5-6-12. According to the Notice of Finding and Issuance of Charge, "reasonable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the IFHA with respect to the "reasonable cause" claim.
2. "The notice of the election must be filed with the docket clerk of the ICRC and serviced on the director, the respondent, and the aggrieved persons on whose behalf the complaint was filed." 910 IAC 2-6-6(h)(2).<sup>1</sup> The Notice was appropriately served.
3. If a complete and timely election is made, then "...the administrative law judge shall dismiss the administrative proceeding." 910 IAC 2-7-9(a).
4. An election by a Respondent must be made under the IFHA within "...twenty (20) days after the date of receipt by the electing person..." IND. CODE § 22-9.5-6-12(b). The Notice was timely filed.
5. Accordingly, Respondent's IFHA Notice is effective such that the ICRC shall dismiss the IFHA claim pending in the administrative forum.

#### *Election under the Indiana Civil Rights Law*

6. Indiana Code 22-9-1-16 allows parties to "...elect to have the claims that are the basis for a finding of probable cause decided in a civil action..." IND. CODE § 22-9-1-16(a). According to the Notice of Finding and Issuance of Charge, "probable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the ICRL with respect to the "probable cause" claim.

---

<sup>1</sup> After the creation of the Office of Administrative Law Proceedings, service on the OALP ALJ meets the requirement that service be completed on the ICRC Docket Clerk, whose function, prior to the transition, was to provide filings to the ICRC ALJ.

7. In order to make such an election, "...both the respondent and the complainant must agree in writing to have the claims decided in a court of law." IND. CODE § 22-9-1-16(a); 910 IAC 1-3-6. The Parties are in agreement as to the election and have confirmed the agreement in writing.
8. The election must be made on the form provided to the Parties by the ICRC and must be served on all Parties. IND. CODE § 22-9-1-16(a); 910 IAC 1-5-1(b). The Notice was made on ICRC's form and was served on all Parties.
9. An election is considered untimely if the election is made after a hearing on the merits of the complaint has begun. IND. CODE § 22-9-1-16(b). The Notice was timely filed.
10. "If all parties have filed a timely election to proceed in circuit or superior court, the commission shall dismiss the case, without prejudice. Such dismissal shall be sufficient to exhaust all administrative remedies in the case." 910 IAC 1-3-6.
11. Accordingly, the Notice is effective such that the ICRC shall dismiss the ICRL claim pending in the administrative forum.

#### DECISION

1. The Notice is GRANTED.
2. The Complaint of Discrimination under the ICRL is DISMISSED, without prejudice. 910 IAC 1-3-6.
3. The Complaint and Charge of Discrimination under the IFHA are DISMISSED, with prejudice. 910 IAC 2-7-9(a).

This order becomes the final order disposing of the proceedings immediately upon affirmation under Indiana Code 4-21.5-3-29. IND. CODE § 4-21.5-3-27(a).

SO ORDERED: March 15, 2022



---

Hon. Caroline A. Stephens Ryker, Administrative Law Judge  
Indiana Office of Administrative Law Proceedings  
100 North Senate Ave., Room N802  
Indianapolis, IN 46204  
(317) 234-6689



Filed March 10, 2022

**From:** [Bremer, Frederick](#)  
**To:** [OALP](#)  
**Subject:** RESPONSE RE: ICRC-2202-000271 Edward Stotts vs Bedford Housing Authority  
**Date:** Thursday, March 10, 2022 8:34:03 AM

---

Yes, in view of Respondent's exercise of its right to have the Fair Housing Act reasonable cause finding litigated in court, the Complainant joins in electing the removal of both findings from the administrative forum.

**From:** OALP <OALP@oalp.IN.gov>  
**Sent:** Thursday, March 10, 2022 8:30 AM  
**To:** Bremer, Frederick <fbremer@icrc.IN.gov>  
**Cc:** OALP <OALP@oalp.IN.gov>  
**Subject:** ICRC-2202-000271 Edward Stotts vs Bedford Housing Authority

Good Morning Mr. Bremer,

Per the filing, it appears that Complainant is joining Respondent in electing out of this forum. Please confirm that Complainant is joining the election.

Sincerely,

OALP

**Distribution List:**

*The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IND. CODE § 4-21.5-3-18.*

Gregory L. Wilson, Sr.\*: 100 North Senate Ave., Room N300, Indianapolis, IN 46204

Frederick Bremer\*: 100 North Senate Ave., Room N300, Indianapolis, IN 46204; (317) 232-2600

Edward Stotts: 1305 K Street, #326, Bedford, IN 47421

Bedford Housing Authority\*: Bobbie Ames, 1305 K Street, Bedford, IN 47421

Attorney Meek\*: 9100 Keystone Crossing, Suite 870 P.O. Box 40960 Indianapolis, IN 46240

Chair Slash of the Indiana Civil Rights Commission – ultimate authority and served at [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

*\*served in care of appearing attorney through ALP system at the email address on file with the Indiana Roll of Attorneys – all other service by mail.*

---

**APPEAL RIGHTS AND ULTIMATE AUTHORITY REVIEW**

---

You are hereby notified of your right to administrative review. If a party to this action wishes to have the ultimate authority administratively review this Recommended Order, the party requesting review must not be in default and must file written objections that:

- 1) Identify the basis of the objection with reasonable particularity; and
- 2) Are filed with the Indiana Civil Rights Commission on or before the 15<sup>th</sup> day after the date this order was issued.

Objections may be filed with the Indiana Civil Rights Commission by mail or in person at 100 North Senate Ave., Room N300, Indianapolis, IN 46204, by email at [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov), or by fax at (317) 232-6580. A Party shall serve copies of any filed item on all Parties. Questions can be directed to (317) 232-2600.

---

**ULTIMATE AUTHORITY**

---

*The below information is for the Ultimate Authority's use only. Circle, check, or fill in the blanks below.*

Timely objections were/were not filed to the above Recommended Order. Timely briefs on objections (if any) were/were not filed. An oral argument on objections (if any) was/was not held.

On May 20, 2022, the Indiana Civil Rights Commission decided, by the majority vote of 6 out of the 6 Commissioners present to:

1. Affirm the above Recommended Order
2. Remand the above Recommended Order as further detailed in ICRC Attachment A.
3. Modify the above Recommended Order as further detailed in ICRC Attachment A.

SO ORDERED this 20th day of May, 2021.

Chair Adrienne L. Stash : X Adrienne L. Stash

Unless the ICRC remanded this matter to the ALJ, then **THIS IS A FINAL ORDER**. A Party to a dispute filed under IC 22-9 and/or IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9-8-1; IC 22-9.5-11-1.